

108TH CONGRESS  
1ST SESSION

# S. 1455

To regulate international marriage broker activity in the United States, to provide for certain protections for individuals who utilize the services of international marriage brokers, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JULY 25 (legislative day, JULY 21), 2003

Ms. CANTWELL introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To regulate international marriage broker activity in the United States, to provide for certain protections for individuals who utilize the services of international marriage brokers, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “International Marriage  
5       Broker Regulation Act of 2003”.

1 **SEC. 2. LIMIT ON CONCURRENT PETITIONS FOR FIANCÉ(E)**

2 **VISAS.**

3 Section 214(d) of the Immigration and Nationality  
4 Act (8 U.S.C. 1184(d)) is amended—

5 (1) by inserting “(1)” before “A visa”; and

6 (2) by adding at the end the following:

7 “(2) A United States citizen or a legal permanent  
8 resident may not file more than 1 application for a visa  
9 under section 101(a)(15)(K)(i) in any 1-year period.”.

10 **SEC. 3. INTERNATIONAL MARRIAGE BROKERS.**

11 Section 652 of the Omnibus Consolidated Appropria-  
12 tions Act, 1997 (8 U.S.C. 1375), is amended to read as  
13 follows:

14 **“SEC. 652. INTERNATIONAL MARRIAGE BROKERS.**

15 **“(a) FINDINGS.—**Congress finds the following:

16 “(1) There is a substantial international mar-  
17 riage broker business worldwide. A 1999 study by  
18 the Immigration and Naturalization Service esti-  
19 mated that in 1999 there were at least 200 such  
20 companies operating in the United States, and that  
21 as many as 4,000 to 6,000 persons in the United  
22 States, almost all male, find foreign spouses through  
23 for-profit international marriage brokers each year.

24 “(2) Aliens seeking to enter the United States  
25 to marry citizens of the United States currently lack  
26 the ability to access and fully verify personal history

1 information about their prospective American  
2 spouses.

3 “(3) Persons applying for fiancé(e) visas to  
4 enter the United States are required to undergo a  
5 criminal background information investigation prior  
6 to the issuance of a visa. However, no corresponding  
7 requirement exists to inform those seeking fiancé(e)  
8 visas of any history of violence by the prospective  
9 United States spouse.

10 “(4) Many individuals entering the United  
11 States on fiancé(e) visas for the purpose of marrying  
12 a person in the United States are unaware of United  
13 States laws regarding domestic violence, including  
14 protections for immigrant victims of domestic vio-  
15 lence, prohibitions on involuntary servitude, protec-  
16 tions from automatic deportation, and the role of po-  
17 lice and the courts in providing assistance to victims  
18 of domestic violence.

19 “(b) DEFINITIONS.—In this section:

20 “(1) CLIENT.—The term ‘client’ means a  
21 United States citizen or legal permanent resident  
22 who makes a payment or incurs a debt in order to  
23 utilize the services of an international marriage  
24 broker.

1           “(2) CRIME OF VIOLENCE.—The term ‘crime of  
2           violence’ has the same meaning given the term in  
3           section 16 of title 18, United States Code.

4           “(3) DOMESTIC VIOLENCE.—The term ‘domes-  
5           tic violence’ means any crime of violence, or other  
6           act forming the basis for past or outstanding protec-  
7           tive orders, restraining orders, no-contact orders,  
8           convictions, arrests, or police reports, committed  
9           against a person by—

10               “(A) a current or former spouse of the  
11               person;

12               “(B) an individual with whom the person  
13               shares a child in common;

14               “(C) an individual who is cohabiting with  
15               or has cohabited with the person;

16               “(D) an individual similarly situated to a  
17               spouse of the person under the domestic or  
18               family violence laws of the jurisdiction where  
19               the offense occurs; or

20               “(E) any other individual if the person is  
21               protected from that individual’s acts under the  
22               domestic or family violence laws of the United  
23               States or any State, Indian tribal government,  
24               or unit of local government.

1           “(4) FOREIGN NATIONAL CLIENT.—The term  
2           ‘foreign national client’ means a non-resident alien  
3           who utilizes the services of an international marriage  
4           broker.

5           “(5) INTERNATIONAL MARRIAGE BROKER.—

6                   “(A) IN GENERAL.—The term ‘inter-  
7                   national marriage broker’ means a corporation,  
8                   partnership, business, individual, or other legal  
9                   entity, whether or not organized under any law  
10                  of the United States, that charges fees for pro-  
11                  viding dating, matrimonial, social referrals, or  
12                  matching services between United States citi-  
13                  zens or legal permanent residents and non-  
14                  resident aliens by providing information that  
15                  would permit individuals to contact each other,  
16                  including—

17                           “(i) providing the name, telephone  
18                           number, address, electronic mail address,  
19                           or voicemail of an individual; or

20                           “(ii) providing an opportunity for an  
21                           in-person meeting.

22                   “(B) EXCEPTIONS.—Such term does not  
23                  include—

24                           “(i) a traditional matchmaking orga-  
25                           nization of a religious nature that operates

1 on a nonprofit basis and otherwise oper-  
2 ates in compliance with the laws of the  
3 countries in which it operates including the  
4 laws of the United States; or

5 “(ii) an entity that provides dating  
6 services between United States citizens or  
7 legal permanent residents and aliens, but  
8 not as its principal business, and charges  
9 comparable rates to all clients regardless of  
10 the gender or country of residence of the  
11 client.

12 “(6) PERSONAL CONTACT INFORMATION.—

13 “(A) IN GENERAL.—The term ‘personal  
14 contact information’ means information that  
15 would permit an individual to contact another  
16 individual, including—

17 “(i) the name, address, phone num-  
18 ber, electronic mail address, or voice mes-  
19 sage mailbox of that individual; and

20 “(ii) the provision of an opportunity  
21 for an in-person meeting.

22 “(B) EXCEPTION.—Such term does not in-  
23 clude a photograph or general information  
24 about the background or interests of a person.

1       “(c) OBLIGATIONS OF INTERNATIONAL MARRIAGE  
 2 BROKER WITH RESPECT TO INFORMED CONSENT.—An  
 3 international marriage broker shall not provide any per-  
 4 sonal contact information about any foreign national cli-  
 5 ent, not including photographs, to any person unless and  
 6 until the international marriage broker has—

7               “(1) provided the foreign national client with  
 8 information in his or her native language that ex-  
 9 plains the rights of victims of domestic violence in  
 10 the United States, including the right to petition for  
 11 residence independent of, and without the knowl-  
 12 edge, consent, or cooperation of, the spouse; and

13               “(2) received from the foreign national client a  
 14 signed consent to the release of such personal con-  
 15 tact information.

16       “(d) MANDATORY COLLECTION OF INFORMATION.—

17               “(1) IN GENERAL.—Each international mar-  
 18 riage broker shall require each client to provide the  
 19 information listed in paragraph (2), in writing and  
 20 signed by the client (including by electronic writing  
 21 and electronic signature), to the international mar-  
 22 riage broker prior to referring any personal contact  
 23 information about any foreign national client to the  
 24 client.

1           “(2) INFORMATION.—The information required  
2           to be provided in accordance with paragraph (1) is  
3           as follows:

4                   “(A) Any arrest, charge, or conviction  
5                   record for homicide, rape, assault, sexual as-  
6                   sault, kidnap, or child abuse or neglect.

7                   “(B) Any court ordered restriction on  
8                   physical contact with another person, including  
9                   any temporary or permanent restraining order  
10                  or civil protection order.

11                  “(C) Marital history, including if the per-  
12                  son is currently married, if the person has pre-  
13                  viously been married and how many times, how  
14                  previous marriages were terminated and the  
15                  date of termination, and if the person has pre-  
16                  viously sponsored an alien to whom the person  
17                  has been engaged or married.

18                  “(D) The ages of any and all children  
19                  under the age of 18.

20                  “(E) All States in which the client has re-  
21                  sided since the age of 18.

22           “(e) ADDITIONAL OBLIGATIONS OF THE INTER-  
23           NATIONAL MARRIAGE BROKER.—An international mar-  
24           riage broker shall not provide any personal contact infor-



1 mation about any foreign national client to any client, un-  
 2 less and until—

3 “(1) the client has been informed that the client  
 4 will be subject to a criminal background check  
 5 should they petition for a visa under clause (i) or  
 6 (iii) of section 101(a)(15)(K) of the Immigration  
 7 and Nationality Act (8 U.S.C. 1101(a)(15)(K)); and

8 “(2) the foreign national client has been pro-  
 9 vided a copy of the information required under sub-  
 10 section (d) regarding that client.

11 “(f) CIVIL PENALTY.—

12 “(1) VIOLATION.—An international marriage  
 13 broker that the Secretary of Homeland Security de-  
 14 termines has violated any provision of this section or  
 15 section 7 of the International Marriage Broker Reg-  
 16 ulation Act of 2003 shall be subject, in addition to  
 17 any other penalties that may be prescribed by law,  
 18 to a civil penalty of not more than \$20,000 for each  
 19 such violation.

20 “(2) PROCEDURES FOR IMPOSITION OF PEN-  
 21 ALTY.—A penalty imposed under paragraph (1) may  
 22 be imposed only after notice and an opportunity for  
 23 an agency hearing on the record in accordance with  
 24 sections 554 through 557 of title 5, United States  
 25 Code.

1       “(g) CRIMINAL PENALTY.—An international mar-  
 2 riage broker that, within the special maritime and terri-  
 3 torial jurisdiction of the United States, violates any provi-  
 4 sion of this section or section 7 of the International Mar-  
 5 riage Broker Regulation Act of 2003 shall be fined in ac-  
 6 cordance with title 18, United States Code, or imprisoned  
 7 for not less than 1 year and not more than 5 years, or  
 8 both.

9       “(h) ENFORCEMENT.—In any case in which the at-  
 10 torney general of a State has reason to believe that an  
 11 interest of the residents of that State has been, or is  
 12 threatened to be, adversely affected by a violation of this  
 13 section, the State, as *parens patriae*, may bring a civil ac-  
 14 tion on behalf of the residents of the State in a district  
 15 court of the United States of appropriate jurisdiction to—

16               “(1) enjoin that practice;

17               “(2) enforce compliance with this section; or

18               “(3) obtain damages.

19       “(i) STUDY AND REPORT.—

20               “(1) STUDY.—Not later than 2 years after the  
 21 date of enactment of the International Marriage  
 22 Broker Regulation Act of 2003, the Attorney Gen-  
 23 eral, in consultation with the Director of the Bureau  
 24 of Citizenship and Immigration Services within the

1 Department of Homeland Security, shall conduct a  
2 study—

3 “(A) regarding the number of international  
4 marriage brokers doing business in the United  
5 States and the number of marriages resulting  
6 from the services provided, and the extent of  
7 compliance with this section and section 7 of  
8 the International Marriage Broker Regulation  
9 Act of 2003;

10 “(B) that assesses information gathered  
11 under this section and section 7 of the Inter-  
12 national Marriage Broker Regulation Act of  
13 2003 from clients and petitioners by inter-  
14 national marriage brokers and the Bureau of  
15 Citizenship and Immigration Services;

16 “(C) that examines, based on the informa-  
17 tion gathered, the extent to which persons with  
18 a history of violence are using the services of  
19 international marriage brokers and the extent  
20 to which such persons are providing accurate  
21 information to international marriage brokers  
22 in accordance with this section and section 7 of  
23 the International Marriage Broker Regulation  
24 Act of 2003; and

1           “(D) that assesses the accuracy of the  
2           criminal background check at identifying past  
3           instances of domestic violence.

4           “(2) REPORT.—Not later than 3 years after the  
5           date of enactment of the International Marriage  
6           Broker Regulation Act of 2003, the Secretary of  
7           Homeland Security shall submit a report to the  
8           Committees on the Judiciary of the Senate and the  
9           House of Representatives setting forth the results of  
10          the study conducted pursuant to paragraph (1).”.

11 **SEC. 4. CRIMINAL BACKGROUND CHECK.**

12          Section 214(d) of the Immigration and Nationality  
13          Act (8 U.S.C. 1184(d)), as amended by section 2, is fur-  
14          ther amended by adding at the end the following:

15          “(3) A petitioner for a visa under clause (i) or (iii)  
16          of section 101(a)(15)(K) shall undergo a national criminal  
17          background check conducted using the national criminal  
18          history background check system and State criminal his-  
19          tory repositories of all States in which the applicant has  
20          resided prior to the petition being approved by the Sec-  
21          retary of Homeland Security, and the results of the back-  
22          ground check shall be included in the petition forwarded  
23          to the consular office under that section.”.

1 **SEC. 5. CHANGES IN CONSULAR PROCESSING OF FIANCÉ(E)**  
2 **VISA APPLICATIONS.**

3 (a) IN GENERAL.—During the consular interview for  
4 purposes of the issuance of a visa under clause (i) or (iii)  
5 of section 101(a)(15)(K) of the Immigration and Nation-  
6 ality Act (8 U.S.C. 1101(a)(15)(K)), a consular officer  
7 shall disclose to the alien applicant information in writing  
8 in the native language of the alien concerning—

9 (1) the illegality of domestic violence in the  
10 United States and the availability of resources for  
11 victims of domestic violence (including aliens), in-  
12 cluding protective orders, crisis hotlines, free legal  
13 advice, and shelters;

14 (2) the requirement that international marriage  
15 brokers provide foreign national clients with re-  
16 sponses of clients to questions regarding the client's  
17 domestic violence history and marital history, but  
18 that such information may not be accurate;

19 (3) the right of an alien who is or whose chil-  
20 dren are subjected to domestic violence or extreme  
21 cruelty by a United States citizen spouse or legal  
22 permanent resident spouse, to self-petition for legal  
23 permanent immigration status under the Violence  
24 Against Women Act independently of, and without  
25 the knowledge, consent, or cooperation of, such

1 United States citizen spouse or legal permanent resi-  
2 dent spouse; and

3 (4) any information regarding the petitioner  
4 that—

5 (A) was provided to the Bureau of Citizen-  
6 ship and Immigration Services within the De-  
7 partment of Homeland Security pursuant to  
8 section 7; and

9 (B) is contained in the background check  
10 conducted in accordance with section 214(d)(3)  
11 of the Immigration and Nationality Act, as  
12 added by section 4, relating to any conviction or  
13 civil order for a crime of violence, act of domes-  
14 tic violence, or child abuse or neglect.

15 (b) DEFINITIONS.—In this section, the terms “cli-  
16 ent”, “domestic violence”, “foreign national client”, and  
17 “international marriage brokers” have the same meaning  
18 given such terms in section 652 of the Omnibus Consoli-  
19 dated Appropriations Act, 1997 (8 U.S.C. 1375).

20 **SEC. 6. INTERAGENCY TASK FORCE TO MONITOR AND COM-**  
21 **BAT TRAFFICKING.**

22 Section 105 of the Victims of Trafficking and Vio-  
23 lence Protection Act of 2000 (22 U.S.C. 7103) is amend-  
24 ed—

1           (1) in subsection (d)(2), by inserting “and the  
 2       role of international marriage brokers (as defined in  
 3       section 652 of the Omnibus Consolidated Appropria-  
 4       tions Act, 1997 (8 U.S.C. 1375))” after “public cor-  
 5       ruption”; and

6           (2) by adding at the end the following:

7       “(f) MEETINGS.—The Task Force shall meet not less  
 8       than 2 times in a calendar year.”.

9       **SEC. 7. BUREAU OF CITIZENSHIP AND IMMIGRATION SERV-**  
 10           **ICES.**

11       The Bureau of Citizenship and Immigration Services  
 12       within the Department of Homeland Security shall require  
 13       that information described in section 652(c) of the Omni-  
 14       bus Consolidated Appropriations Act, 1997 (8 U.S.C.  
 15       1375(c)), as amended by section 3, be provided to the Bu-  
 16       reau of Citizenship and Immigration Services by a client  
 17       (as defined in section 652 of the Omnibus Consolidated  
 18       Appropriations Act, 1997 (8 U.S.C.1375)) in writing and  
 19       signed under penalty of perjury as part of any visa petition  
 20       under section 214(d) of the Immigration and Nationality  
 21       Act (8 U.S.C. 1184(d)).

22       **SEC. 8. GOOD FAITH MARRIAGES.**

23       The fact that an alien who is in the United States  
 24       on a visa under clause (i) or (iii) of section 101(a)(15)(K)  
 25       of the Immigration and Nationality Act (8 U.S.C.

1 1101(a)(15)(K)) is aware of the criminal background of  
2 a client (as defined in section 652 of the Omnibus Consoli-  
3 dated Appropriations Act, 1997 (8 U.S.C. 1375)) cannot  
4 be used as evidence that the marriage was not entered  
5 into in good faith.

6 **SEC. 9. TECHNICAL AND CONFORMING AMENDMENTS.**

7 Section 214(d) of the Immigration and Nationality  
8 Act (8 U.S.C. 1184(d)) is amended by striking “Attorney  
9 General” each place that term appears and inserting “Sec-  
10 retary of Homeland Security”.

11 **SEC. 10. PREEMPTION.**

12 Nothing in this Act, or the amendments made by this  
13 Act, shall preempt any State law that provides additional  
14 protection for aliens who are utilizing the services of an  
15 international marriage broker (as defined in section 652  
16 of the Omnibus Consolidated Appropriations Act, 1997 (8  
17 U.S.C. 1375)).

○